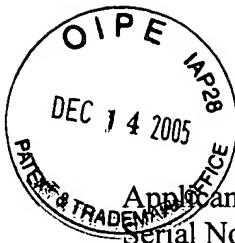


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kapeles
Serial No.: 10/674,047
Filed: 09/29/2003
For: Frangible Non-Lethal Projectile
Art Unit: 3641
Examiner: Clement

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

This communication is in response to a restriction/election requirement with mail date of Nov. 17, 2005, in which the Examiner has designated the following combination/subcombination and requires restriction to one of said combination/subcombination:

I: Claims 1, 3, 6-10, 12 and 13 (classified in 102/502)
II: Claims 14, 16, 18-23, 25-30 and 31 (classified in 102/517)

Applicant elects with traverse to prosecute Set II, claims 14, 16, 18-23, 25-30 and 31 (class 102, subclass 517).

The undersigned certifies that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below.

12/12/05

Date

Thomas C. Saitta

The Examiner further indicates that the application contains claims directed to patentably distinct species, to wit, the following as payloads:

- a. marker agents
- b. lacrimators
- c. irritants
- d. inflammatory agents
- e. odorants
- f. inert powders

Applicant elects the single species of marker agents for prosecution on the merits, to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant submits that claims 14, 18, 20 and 27 are generic claims as defined in MPEP 806.04(d). Each of the generic claims includes no material element additional to those recited in the species claims and comprehends within its confines the organization covered in each of the species. Each of the claims 14, 18, 20 and 27 include a plurality of the disclosed embodiments within the breadth and scope of definition, and are therefore generic claims, as stated in MPEP 806.04(e).

Applicant further submits that any species present in the application fall under the purview of 37 CFR 1.141 (a) and are properly claimed in a single national application.

Respectfully submitted,



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